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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,917

03/14/2005

Henri Klein

045956-0103

4219

22428 7590 03/28/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,917	Applicant(s) KLEIN ET AL.	
	Examiner John K. Ford	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/31/05</u> . | 6) <input type="checkbox"/> Other: ____. |

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. As shown in the office action below the generic claims including claim 1 are anticipated by the prior art. Accordingly, the novelty and non-obviousness, if any, of these claims will necessarily rest in special technical features that are not common to both species.

The species are as follows:

First species of Figures 1-5 as shown and

Second species, not shown, but described on page 7, line 31-page 8, line 8 and again on page 11, lines 19-28.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election. In the event applicant elects the second species identified above a proposed drawing correction showing it is required in response to this office action. Do not introduce any new matter into the proposed drawing correction that is not supported by the original disclosure.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 12 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4422120.

By way of explanation, see the European search report that applicant sent in among his prior art references. It is incorporated by reference here. It is dated 13.03.2003 and is entitled “Recherchebericht” and references “Akenzelchen: 10261037.1”. DE 4422120, discussed there, was not among the references listed in applicant’s IDS. A history of all rejections made in that EPO prosecution and a copy (in English) of any allowed claim(s) is required in response to this action.

Claims 1-5, 12-14 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19919132.

This reference is listed as an X reference from the PCT. That explanation is incorporated here by reference. In Figures 3-4 a four zone embodiment is disclosed and air flaps 20, 21, 22, and 23, located downstream of the heater 6, control the flow as claimed. Regarding the damper drives, see Figure 14.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19919132 as applied to claim 1-5, 12-14 and 16-20 above, and further in view of Schwarz (USP 6,599,182).

To have combined actuators in DE '132 such that more than one door is mechanically linked to a given actuator would have been obvious to one of ordinary skill in the art to save cost as taught by Schwarz in col. 7, lines 60-67 and Figure 1, showing a single actuator 130.

Claims 1-4, 12, 17-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19739578.

DE '578 shows a four zone system with air flaps 36, 38, 40 and 42 controlling the air flow through the heater 22 and the bypass passages 26. Between each of the air flaps is a dividing wall 27c, 27b, and 27a that permits the four independent zones to be achieved.

Claims 1-4, 6-10, 12 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19739578 in view of EP 1070611.

DE 19739578 is explained above and that explanation is incorporated here by reference.

In EP '611, see Figure 7(a) and 7(b) and note that seal 21 rides against the sides of the case.

To have substituted an air mix flap of the type disclosed in EP '611 in place each of air mix flaps 36, 38, 40 and 42 of DE '578 would have been obvious to one of ordinary skill in the art, to advantageously reduce turbulence and improve airflow as discussed in great detail in EP '611. Furthermore, the disadvantages of the air flap construction of DE '578 are explained in EP '611 in regard to Figure 11 (which shows an air flap similar to that disclosed in DE '578) and that entire explanation is incorporated here by reference.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '578 in view of EP '611 as applied to claim 10 above, and further in view of DE 4343367.

To have added sealing edges to the housing of DE '578 to interact with the edges of the door taught by EP '611 would have been obvious to one of ordinary skill in the art in view of any one of Figures 2-4 of DE '367 to advantageously improve sealing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John K. Ford/
Primary Examiner, Art Unit 3744